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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

ANDREW R. LOPEZ,

Plaintiff,

v.

D. PETERSON, et al.,

Defendants.

No. 2:98-cv-2111 LKK-EFB (PC)

**STIPULATION AND PROPOSED
ORDER TO CONTINUE STATUS
CONFERENCE AND VACATE THE
SCHEDULING ORDER**

Under Federal Rules of Civil Procedure 16(b)(4) and Local Rule 143, the parties, through their counsel of record (limited counsel for Plaintiff), agree to and request a continuance of the status conference set for August 13, 2014, and for the Court to vacate the modified Scheduling Order. (*See* ECF Nos. 371, 376.) Good cause exists to grant this stipulation because Plaintiff's counsel requires more time to review the discovery at issue, and defense counsel has a conflict with the current status-conference date.

A scheduling order may be modified only upon a showing of good cause and by leave of Court. Fed. R. Civ. P. 6(b)(1)(A), 16(b)(4); *see, e.g., Johnson v. Mammoth Recreations, Inc.*, 975

1 F.2d 604, 609 (describing the factors a court should consider in ruling on such a motion). In
2 considering whether a party moving for a schedule modification has good cause, the Court
3 primarily focuses on the diligence of the party seeking the modification. *Johnson*, 975 F.2d at
4 609 (citing Fed. R. Civ. P. 16 advisory committee's notes of 1983 amendment). "The district
5 court may modify the pretrial schedule 'if it cannot reasonably be met despite the diligence of the
6 party seeking the amendment.'" *Id.* (quoting Fed. R. Civ. P. 16 advisory committee notes of 1983
7 amendment).

8 On July 8, 2014, the Court appointed Robert Navarro from the Court's pro bono attorney
9 panel to represent Plaintiff for the limited purpose of conducting discovery. (ECF No. 403.)
10 Before the appointment of counsel, Plaintiff filed a motion to vacate the scheduling deadlines and
11 a motion to compel Defendants' further responses to his discovery. (ECF Nos. 391, 397.) On
12 July 11, 2014, the Court set a status conference for August 13, 2014, where Mr. Navarro is to
13 inform the Court whether he intends to amend, re-file, or withdraw Plaintiff's pending motions
14 and whether any modification to the scheduling deadlines is necessary. (ECF No. 404.)

15 Although Mr. Navarro has obtained most of the disputed discovery, he will require more
16 time to review and analyze the documents and motions. Due to other deadlines and work he had
17 pending before his appointment here, he will not be able to complete his review before the August
18 13 hearing. Also, defense counsel is not available on August 13 because she has a deposition
19 scheduled for that day; the deposition was calendared before the Court set the status conference
20 here. Defense counsel obtained court approval to take the deposition by video conference, and
21 rescheduling it will require the coordination of various individuals and institutions. Thus, good
22 cause exists to continue the status conference. The parties recommend that the hearing be
23 continued to August 27 or another date thereafter that is convenient to the Court.

24 The parties also agree and stipulate to the Court vacating the October 28, 2014 dispositive-
25 motion deadline—the only pending deadline. (*See* ECF Nos. 371, 376.) Based on Mr. Navarro's
26 preliminary review of the disputed discovery and documents, he believes re-opening discovery
27 may be necessary to allow the Court to rule on all or a portion of the pending discovery motion
28 and to allow for follow-up discovery, which is unlikely to be completed in the time remaining

1 before the dispositive-motion deadline. The parties' counsel agree to meet and confer before the
2 status conference concerning discovery and the scheduling dates and will submit a joint status
3 report seven days before the rescheduled status conference for the Court's consideration. Good
4 cause therefore exists to vacate the current Scheduling Order.

5 IT IS SO STIPULATED.

6
7 Dated: July 25, 2014

Respectfully submitted,

8 KAMALA D. HARRIS
9 Attorney General of California
10 CHRISTOPHER J. BECKER
Supervising Deputy Attorney General

11 */s/ Diana Esquivel*

12 DIANA ESQUIVEL
13 Deputy Attorney General
Attorneys for Defendants

14
15 Dated: July 25, 2014

/s/ Robert Navarro

16 ROBERT NAVARRO
17 Limited-Purpose Attorney for Plaintiff

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ORDER

Based on the parties' stipulation and good cause appearing, it is ordered that:

1. The status conference set for August 13, 2014 at 10 a.m. before the undersigned is continued to **August 27, 2014 at 10:00** a.m. in Courtroom 8;
2. The parties shall file a joint status report seven days before the status conference; and
3. All scheduling deadlines are VACATED. The Court will set new deadlines after the status conference.

IT IS SO ORDERED.

Dated: July 28, 2014.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE